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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MARK GLENNON, Plaintiff, v. BRANDON JOHNSON, *in his official capacity as Mayor of Chicago*; MELISSA CONYEARS-ERVIN, *in her official capacity as Chicago City Treasurer*; CITY OF CHICAGO; CHARLES SCHMADEKE, SEAN BRANNON, STEPHEN FERRARA, and DIONNE HAYDEN, *in their official capacity as Chairman and Members of the Illinois Gaming Board*; BALLY'S CHICAGO INC.; BALLY'S CHICAGO OPERATING COMPANY, LLC; and BALLY'S CORPORATION, Defendants.	Case No. 1:25-cv-1057 Plaintiff's Reply to Defendant Bally's Response to Motion for Preliminary Injunction and Temporary Restraining Order

Plaintiff Mark Glennon submits this Reply to Defendant Bally's Chicago Inc. (Bally's) Response in Opposition to his Motion for Preliminary Injunction and Temporary Restraining Order (TRO). Plaintiff recognizes that time is of the essence in deciding this matter and therefore will not belabor points already made in his Memorandum of Law accompanying the Motion for Temporary Restraining Order ECF 6, instead restricting this Reply to a few key points raised by Bally's that he feels require a reply.

First, Bally's apparently misinterprets FRCP 65(b)(1) to require an affidavit or verified complaint for all emergency motions for a TRO, Bally's Resp. at 13, but that Rule lays out specific procedures under which a court can issue a TRO *ex parte*. *See* Fed. R. Civ. Procedure 65 (b)(1). The title of that section is in fact "Issuing [a TRO] Without Notice," and provides that a "court may issue a temporary restraining order *without written or oral notice* to the adverse party or its attorney only if" a Plaintiffs evidences his claim with an affidavit or verified complaint. But the entire reason Bally's was able to file this Response is because Defendant Bally's *did* receive actual notice. Plaintiff filed this Motion on Friday, January 31. On Saturday, counsel for Bally's entered appearances, when the TRO was already on the docket for them to notice and review.

But, cognizant of this Court's admonition on its webpage that "[a]ll reasonable efforts must be made to give actual notice to opposing counsel," Saturday evening, February 1, 2025, Plaintiff's counsel emailed the lawyers who had entered appear-

ances for Bally's, along with counsel from the Attorney Generals office and City Attorney's office identified as having previously represent the other named defendants in litigation in this District, copies of the Complaint and TRO, and explained the situation. Counsel submits that this was sufficient actual notice to Bally's and all other defendants, as demonstrated by the fact that all Defendants were able to appear at the hearing on this matter held the morning of February 4, 2025.

Second Defendant Bally's alleges that Plaintiff is not interested in investing because in various public statements he described out that Bally's IPO as a risky investment only suitable for seasoned investors. Plaintiff is a seasoned investor who can afford to lose his entire investment and fully understands the risks associated with Bally's IPO. Plaintiff's comments were an expression of concern at the unsophisticated investors who have been targeted by promoters of these securities without regard to the suitability of this risky investment for the audience targeted.

Finally, Bally's insist there can be no irreparable harm here because Plaintiff might be adequately compensated with monetary damages, but being discriminated on the basis of race, like all violations of fundamental constitutional rights, is itself a harm that is irreparable. "Defendants make the extraordinary argument that racial discrimination inflicts no harm at all… Plaintiff[is] excluded from the program based on their race and are thus experiencing discrimination at the hands of their government." *Faust v. Vilsack*, 519 F. Supp. 3d 470, 476 (E.D. Wis. 2021) (finding irreparable harm sufficient to enjoin distribution of loan forgiveness to farmers on the basis of race).

Moreover, the intrinsic value of owning a share of the only casino in Chicago; such ownership is "not fungible like money," *Jabateh v. Lynch*, 845 F.3d 332, 350 (7th Cir. 2017), or basic services of which "[t]here are numerous [providers] in the marketplace who are *equally* capable of providing a high level of services." *Acosta v. Bd. of Trs. of Unite Here Health*, No. 22 C 1458, 2024 U.S. Dist. LEXIS 149524, at *16 (N.D. Ill. Aug. 21, 2024) (emphasis in original). While many shares exist, a share in Bally's IPO is not fungible with any other investment in any other company or project. Even if the IPO shares were going to be available for purchase on a public exchange (they are not, according to the S-1), there is intrinsic value attached to certain common stock—this is why Disney stock shares are a popular baby gift.

Emergency relief is warranted to pause the distribution of IPO shares during the pendency of this litigation. Plaintiff is likely to succeed on the merits, will suffer irreparable harm absent an injunction, and the balance of equities and public interest favor granting the requested emergency relief.

Request for Relief

WHEREFORE, Plaintiff respectfully requests that the Court issue a temporary restraining order and preliminary injunction ordering Defendants to pause the distribution of IPO shares pending the outcome of this case.

Dated: February 5, 2025

Respectfully submitted,

Mark Glennon

By: Reilly Stephens
One of his Attorneys

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